

# ARKANSAS SUPREME COURT

No. 07-794

RICHARD ALAN DAVIS  
Appellant

v.

STATE OF ARKANSAS  
Appellee

Opinion Delivered February 14, 2008

PRO SE MOTION FOR  
RECONSIDERATION OF DISMISSAL  
OF APPEAL [CIRCUIT COURT OF  
LEE COUNTY, CV 2007-41, HON.  
HARVEY L. YATES, JUDGE]

MOTION DENIED.

## PER CURIAM

Appellant Richard Alan Davis filed a petition for writ of habeas corpus in Lee County Circuit Court. The circuit court denied the petition and appellant lodged an appeal of the order in this court. The State filed a motion to dismiss and we granted the motion on the basis that appellant did not timely file in this court a compliant brief and had not sought to file a belated brief. *Davis v. State*, 07-794 (Ark. Dec. 6, 2007) (per curiam). Appellant now brings this motion seeking reconsideration of our decision to dismiss the appeal.

Appellant argues in his motion that the due date for his brief should have been extended by three days from the date provided in the letter sent to him from one of our staff attorneys. He bases his argument upon the language in Ark. R. Civ. P. 6(d). However, Rule 6 is not applicable in circumstances where an appellant pursues postconviction relief in this court.

This court has recognized that postconviction relief proceedings are civil in nature and applied the Rules of Appellate Procedure—Civil when necessary. *Sanders v. State*, 352 Ark. 16, 98 S.W.3d

35 (2003). However, we have never applied the Rules of Civil Procedure to postconviction relief proceedings. *Id.* Nor will we apply those rules to a postconviction habeas proceeding. *See Baker v. Norris*, 359 Ark. 405, \_\_\_ S.W.3d \_\_\_ (2007). In this case, our staff correctly set the applicable deadline under Ark. Sup. Ct. R. 4-7(c)(4). Appellant was not entitled to an extension under Rule 6.

Motion denied.